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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,743	12/02/2003	Allen Hsu	HSUA3003/EM	2100

23364 7590 11/01/2005

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

EXAMINER

WILLATT, STEPHANIE L

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/724,743	Applicant(s) HSU, ALLEN	
	Examiner Stephanie L. Willatt	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,041,935) in view of Lambert (US 6,745,900).

Yang discloses a modular cosmetic container comprising an outer case (11) having an open receiving space (113) defined by an upper wall. A lower wall and a side wall connecting the upper wall to the lower wall. The outer case (11) has an extending wall extending downwardly along the lateral side of the lower wall to form a recess (112) below the lower wall. An inner case (12) corresponds in size and shape to the receiving space (113) of the outer case (11). The inner case (12) has a containing space (123) for placing cosmetic products therein. The upper and lower ends of the inner case (12) are respectively provided with a pivot (121) for insertion into pivoting holes (114) of the outer case. The inner case (12) is further provided at the lateral side with a curved projection (122) for easily releasing a lock of the inner case (12) from the receiving space. The side wall is provided at the edge side thereof with a retaining projection (dotted line shown in Figure 3) for locking the inner case (12). The inner case (12) is

provided at a predetermined position of the outer side wall thereof with a retaining recess for engaging the retaining projection (dotted line shown in Figure 3).

Yang discloses that its flat upper surface has a protrusion that is engaged by the recess (112) below the lower wall of another container. In Figure 5, Lambert discloses a container (1) with a flat upper surface that has no protrusion. The container (1) has an extending wall (lower portion 4b) extending downwardly along the lateral side of the lower wall to form a recess below the lower wall, as shown in Figure 5. The recess is suitable for engaging the upper wall of another outer case in the manner of lateral holdfast, as shown in Figure 7 and discussed in column 58-62. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the flat upper surface of Yang without a protrusion, as taught by Lambert, since it is an art recognized functional equivalent of the flat upper surface with a protrusion.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roman and Mecca et al. disclose a cosmetic container with a pivoting cover. Tsai discloses a stackable cosmetic container.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


slw


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700